

REMARKS

Claims 1-19 are currently pending. The Examiner issued an Advisory Action on March 17, 2009. Applicant has herein amended the pending claims and has enclosed herewith a Request for Continued Examination. In an Advisory Action mailed March 17, 2009 the Examiner indicated that the amendments presented in the response filed March 4, 2009 would overcome the previous §112, second paragraph rejections. The Advisory Action is silent as to the outstanding §112, first paragraph and prior art rejections.

Applicant believes the §112, first paragraph rejections were appropriately addressed with the amendments and remarks presented in the response filed March 4, 2009. Accordingly, Applicant requests consideration of the remarks presented in the response filed March 4, 2009. Furthermore, should the Examiner wish to maintain any of the §112 rejections, Applicant requests that the Examiner address Applicant's remarks presented in the response filed March 4, 2009.

Although claims 1 and 15-19 have been respectively amended and newly presented herein, as compared to the response filed March 4, 2009, Applicant requests the Examiner's consideration of the arguments set forth in the response filed March 4, 2009 in as much as the Advisory Action, similar to the §112, first paragraph rejections, failed to provide any reasoning as to how the prior amendments fail to overcome the prior art rejections.

With respect to the claims as amended in the response filed March 4, 2009, Applicant has herein further amended claim 1 to further define the present invention and has included new claims 15-19. As currently amended, claim 1 further defines that the a handle device at least

partially overlaps an outer surface of the hammer housing and is capable of movement relative to the hammer housing in a working direction (A). The art of record does not disclose or suggest a percussion tool having the construction or capability of the operation defined by claim 1.

As argued in the response filed March 4, 2009, there is simply no structure in either of Harada et al. or UK Patent Application '045 that allows uninterrupted movement between working parts in a working direction and that limits movement in non-working directions as called for in claim 1. Furthermore, claim 1 further defines the generally telescopic arrested motion that is allowed between the handle device and the hammer housing. There is no such disclosure or suggestion in Harada et al., see, e.g., col. 3, lines 59-67 of Harada, UK Patent Application '045 discloses an assembly wherein the handle is received in a cavity of the tool. Such a construction is directly opposite the construction defined by claim 1. Accordingly, Applicant believes claim 1, and the claims that depend therefrom, are patentably distinct over the art of record.

Claims 15-19 are newly presented herein. Claim 15 defines that the guide device of claim 1 is positioned along working direction (A) at a position that is nearer a tool receptacle than the handle device. Such an orientation is discussed on page 6, paragraph 5 of the specification and is shown in Fig. 2. Accordingly no new matter has been added. Such an orientation serves to further differentiate the class of tool associated with the present invention from the vibration isolating handle and tool assemblies disclosed in the art of record. The art of record shows isolation members positioned nearer the handle than the tool receiving end of the

respective tools. Bars 4 and damper member 6 of the system of Harada et al. are clearly positioned proximate the handle as are the springs 14 and arms 15 of the assembly of UK Patent Application '045. Accordingly, Applicant believes that which is called for in claim 15 is also patentably distinct over the art of record.

Claims 16-19 are also newly presented herein. Claim 16 defines a percussion tool that includes a number of roller elements that are positioned nearer the working end of the tool than a handle end of the tool. The arrangement of the rollers with respect to the hammer housing and handle cover is not disclosed or suggested in the art of record. Claims 17-19 depend from claim 16. Applicant believes that which is called for in claims 16-19 is also patentably distinct over the art of record.

Therefore, for the reasons set forth in the response filed March 4, 2009 and the remarks presented above, Applicant believes claims 1-19 are patentably distinct over the art of record. Accordingly, Applicant respectfully requests a notice of allowance of claims 1-19.

A fee in the amount of \$940 is believed due for the Request for Continued Examination (\$810 large entity) and one month extension (\$130 large entity). The Director is authorized to direct payment of such fees to Deposit Account No. 50-1170. No fees are believed due for those claims that are newly presented herein as the number of claims has not exceeded three independent and twenty total claims. No other fee is believed due with this communication. Should the Examiner consider any other fees to be payable in conjunction with this or any future

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communication, the Director is authorized to direct payment of such fees, or credit any overpayment, to Deposit Account No. 50-1170.

The Examiner is cordially invited to contact the undersigned if any of the above merits further discussion or if any other informal matters remain which may hinder or otherwise delay passage of this matter to issuance.

Respectfully submitted,



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